ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

REMARKS

Applicants respectfully request reconsideration and allowance of this application in view of the amendments above and the following comments.

The original claims have been replaced by a new set of claims. For the Examiner's information, the new claims correspond to the original claims as follows:

New Claim	Original Claim
7	1 (See the lower half of page 3 of the specification for support for component b))
8, 9	3
10, 11	6
12	4
13	5
14, 15, 16	New (See the last full paragraph on page 5 for support)

No new matter has been added.

Claims 2-6 were rejected under 35 USC § 112, second paragraph, as being indefinite. In response, Applicants submit that this rejection is moot in view of the cancellation of the rejected claims. The new claims do not recite both a broad range and a narrower, included range. Also, the new claims do not employ any of the objectionable phrases, and, moreover, incorporate the Examiner's suggested wording in new claim 13 (which replaces claim 5.)

Claims 1-6 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of copending Application No. 09/700,102 in view of Ascione et al. ("Ascione"), U.S. Patent No. 5,605,678. In response, Applicants point out that the patent issuing on the instant application is scheduled to expire on the same date as the patent issuing from copending Application No. 09/700,102, and, thus, there should not be any unjustified time wise extension of monopoly, and, consequently, no double patenting.

Claims 1-3 and 6 were rejected under 35 USC § 102(a) as being anticipated by Luder, WO 98/52526, under 35 USC § 102(b) as being anticipated by Ascione. In response, Applicants point out that Luder was published on November 26, 1998, which is after the instant priority date. The certified copy of the German priority application should be of record, and the

Examiner should be able to ascertain from a comparison of the claims that the instant application is entitled to benefit thereof. Consequently, Luder is not, in fact, prior art.

With respect to Ascione, Applicants submit that Ascione does not teach instant component b). Consequently, Ascione cannot anticipate the present claims.

Claim 5 was rejected under 35 USC § 103(a) as being obvious over Luder or Ascione in view of Nguyen et al. ("Nguyen"), U.S. Patent No. 6,162,448. According to the Examiner, Nguyen teaches the equivalence of hexyldecyl laurate, required by instant claim 13. In response, Applicants point out that the effective date of Nguyen, which is May 28, 1998, also is after the instant priority date. Therefore, Nguyen also is not prior art.

For the record, Applicants also submit that the combination of Ascione and Nguyen is also impossibly strained. Thus, Ascione expressly teaches at various points that the selection of one of his recited oils is critical; see for example, column 1, line 39 therein (referring to "judiciously selected specific oils") and column 2, lines 32-33 therein (referring to "a particular oil selected from among the esters * * * given below.") Respectfully, the teachings of Ascione are so specific in their nature that persons skilled in the art would not have been led by Nguyen to employ esters outside of Ascione's teachings. Accordingly, the combination of Ascione and Nguyen would not, in fact, have led persons skilled in the art to use the instant hexyldecyl laurate

diisooctanoate in Ascione's compositions thereby to achieve the instant compositions.

Claim 4 was rejected under 35 USC §103(a) as being obvious over Luder. According to the Examiner, it is generally known to use isopropyl alcohol as a solvent in cosmetic compositions. In response, Applicants point out that there is no evidence of record supporting this fact, and Applicants call on the Examiner to cite such evidence. *See, for example, In re Grabiak,* 226 USPQ 870 (Fed. Cir. 1985) ("[G]eneralization should be avoided insofar as specific chemical structures are alleged to be *prima facie* obvious one from the other.")

Further, even if the position could be supported, the record is still devoid of any apparent motivation to use isopropyl alcohol in this particular case.

Finally, as pointed out above, Luder is not, in fact, prior art.

Applicants believe that the foregoing constitutes a bona fide response to all outstanding objections and rejections.

Applicants also believe that this application is in condition for immediate allowance. However, should any issue(s) of a minor nature remain, the Examiner is respectfully requested to telephone the undersigned at telephone number (212) 808-0700 so that the issue(s) might be

promptly resolved.

Early and favorable action is earnestly solicited.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing Amendment under 37 CFR § 1.111 (9 pages total) is being facsimile transmitted to the United States Patent and Trademark Office on the date indicated below:

Date: September 17, 2001

By _____
Kurt G. Briscoe